THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION No.9937 of 2002

05.08.2005

Between:

The Nalanda Mutually Aided Cooperative Housing Society Ltd.

..... PETITIONER

AND

The Government of Andhra Pradesh, Municipal Administration& Urban Development Department, Secretariat, Hyderabad & others.

....RESPONDENTS

The Court made the following Order:

The petitioner-society, represented by its Secretary, filed the present Writ Petition against the respondents praying for issuance of a writ, order or direction more particularly in the nature of writ of mandamus declaring the action of the 1st and 2nd respondents in not demolishing the illegal and unauthorized constructions in plot No.57 in Sy.No.149 & 150/1 Paiki at Tolichowki, Hyderabad, as illegal and arbitrary and consequently direct the 2nd respondent to take immediate action for demolition of the illegal structures.

The secretary of the petitioner-society had sworn to the affidavit filed in support of the Writ Petition. It is averred that the 4th respondent, who is not a member of the petitioner-Society, filed a dispute in ARC.No.8 of 2000 before the Deputy Registrar of Cooperative Societies (Housing) Hyderabad to declare that he is entitled to peaceful possession of the Plot No.57 belonging to the petitioner-Society. He filed I.A.No.1 of 2000 in ARC.No.8 of 2000 to issue a direction to the petitioner-society not to resort to any deed of cancellation of the petition schedule property, which was allowed by order dated 25.02.2000. While so, the 4th respondent herein filed suit in O.S.No.2000 of 2002 before the X Junior Civil Judge, City Civil Court, Hyderabad. Along with the suit, he filed I.A.No.620 of 2002 for grant of perpetual injunction, which was allowed by order dated 30.04.2002.

Against the said orders, petitioner-Society filed CMA.No.6 of 2002. Pending disposal of the appeal, the learned Judge by order dated 13.05.2002 ordered Status quo. The 4th respondent also filed I.A.No.528 of 2002 in O.S.No.2435 of 2002 to restrain the 2nd respondent-Commissioner from demolishing the suit schedule building. By order dated 29.04.2002, the 4th respondent obtained ad-interm injunction not to demolish the structures, which are constructed as per the submitted plan till 03.05.2002. The grievance of the petitioner-Society is that even after the lapse of the interim orders dated 29.04.2002, respondents 2 and 3 are not taking any action for demolition of the illegal construction made by the 4th respondent. Hence this writ petition.

Heard both sides and perused the material available on record.

Since the 4th respondent obtained ad-interim injunction not to demolish the structures constructed as per the submitted plan till 03.05.2002, in I.A.No.528 of 2002 in O.S.No.2000 of 2002 on the file of the X Junior Civil Judge, City Civil Court, Hyderabad, the prayer sought for by the petitioner-Society in this writ petition cannot be granted.

Accordingly, the writ petition is dismissed. No order as to costs.

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05.08.2005

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